IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America,	)	CRIMINAL NO. 3:05-464-CMC
	)	
v.	)	**OPINION and ORDER**
	)	
Antonio Cheeseboro,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the court on Defendant's motion to vacate filed in this court pursuant to 28 U.S.C. § 2255. The Government has moved for summary judgment, to which Defendant has replied.

Having considered the § 2255 motion, the Government's motion for summary judgment, and Defendant's reply, the court **grants** the Government's motion for summary judgment.

Defendant contends that he could not waive his § 2255 motion because at the time he entered into the plea agreement, he did not know that this court would "find a basis for enhancing the defendant's offense level under the [Guidelines] or whether the court will depart upward from the applicable guideline range." Defendant's Response at 3 (Dkt. # 873, filed July 20, 2007). However, this court discussed these very issues with Defendant at his plea colloquy, and Defendant indicated, under oath, that he understood the rights he was giving up and that he freely chose to do so. Not only may a defendant waive his right to file a direct appeal of his conviction and sentence, *see United States v. Wiggins*, 905 F.2d 51, 53 (4th Cir. 1990), but he may also waive his right to collaterally attack his conviction and sentence, so long as the waiver is knowing and voluntary. *See United States v. Lemaster*, 403 F.3d 216, 220 (4th Cir. 2005). Because Defendant's waiver of this motion was knowing and voluntary, this motion is precluded.

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For the reasons stated in the Government's motion for summary judgment, with which this court agrees, Defendant's motion is barred. The Government's motion for summary judgment is granted and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON McGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
July 24, 2007

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